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5                   UNITED STATES DISTRICT COURT  
6                   WESTERN DISTRICT OF WASHINGTON  
7                   AT TACOMA

8 JAMES A. GARDIN,

9                   Plaintiffs,

10                 v.

11 OFFICER MAHN,

12                   Defendant.

13                   Case No. C9-5116RJB/JRC

14                   ORDER ADOPTING A REPORT AND  
15                   RECOMMENDATION

16                  The Court, having reviewed the Report and Recommendation of Magistrate Judge J.  
17 Richard Creatura, objections to the Report and Recommendation, if any, and the remaining  
18 record, does hereby find and ORDER:

- 19                  1. The Court adopts the Report and Recommendation.  
20                  2. This action is dismissed WITH PREJUDICE as the force used by the  
21                   defendant was used to restore order and did not violate the cruel and  
22                   unusual punishment clause of the Eighth Amendment.  
23                  3. The Clerk is directed to send a copy of this Order to plaintiff, and to the Hon. J.  
24                   Richard Creatura.

25                  DATED this 9th day of August, 2010.

26                    
ROBERT J. BRYAN  
United States District Judge

ORDER - 1